

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

TESORO REFINING AND MARKETING)
COMPANY LLC,)
)
Plaintiff,)
)
vs.) Case No.: SA-13-CV-
)
NATIONAL UNION FIRE INSURANCE)
COMPANY OF PITTSBURGH, PA,)
)
Defendant.)
)

VIDEOTAPED DEPOSITION OF DANIEL GARRIE

Los Angeles, California

Tuesday, October 7, 2014

Reported by: Cheryl M. Parrish
Job No.: 10891

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10:52 1 Q Now, very likely that's not a hundred
2 percent certainty; correct?

3 A That is correct.

4 Q And -- and by "Leavell," that's somebody
10:52 5 signed in based upon -- or using Mr. Leavell's user
6 name and password?

7 A And the other items we identified, but
8 yes. Correct.

9 Q You don't have any video of Mr. Leavell
10:52 10 actually creating any of the four documents?

11 A That -- that is correct.

12 Q You don't have any other physical evidence
13 that Mr. Leavell's key -- fingers were on the
14 keyboard at the time those documents were created?

10:53 15 A That is correct.

16 MR. BEGLAND: This -- we're still
17 consistent with the hypothetical that someone else
18 has his password and his logon ID?

19 MR. NEUMANN: Correct.

20 MR. BEGLAND: Okay.

21 BY MR. NEUMANN:

22 Q All right. Let me -- let me ask you about
23 that while we're talking about it.

24 Do you know whether Mr. Leavell ever
10:53 25 shared his password with anyone during 2007 or 2008,

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10:53 1 or if -- strike that.

2 Do you know whether Mr. Leavell ever
3 shared his user name and password with anyone in
4 2007 or 2008?

10:53 5 A I had no conversations with Mr. Leavell,
6 so I don't -- I -- I would not know.

7 MR. BEGLAND: He's asking you generally,
8 whether it was Mr. Leavell or otherwise.

9 Do you know whether he shared his
10 password?

11 THE WITNESS: I do not know whether or not
12 he shared it. I know that it would have been a
13 direct violation of Tesoro's policies and procedures
14 and that they were -- but I do not know with
15 certainty one way or the other.

16 BY MR. NEUMANN:

17 Q Do you know any of the passwords that
18 Mr. Leavell used in 2007 or 2008?

19 A Not off the top of my head.

10:54 20 Q Do you have that information?

21 A I do not believe we do. I believe that
22 we -- I do not believe we do.

23 Q So you don't know how secure those
24 passwords were?

10:54 25 A I believe they were fairly secure. They

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10:54 1 made -- when we interviewed Tesoro's IT department,
2 they made it a point to -- when we spoke to them,
3 because we pushed them fairly hard on this, that
4 they required certain passwords and to change them
10:54 5 and et cetera.

6 Q Okay. Do you know how often Tesoro
7 required passwords to be changed in 2007 and 2008?

8 A I cannot --

9 Q Do you know whether Mr. Leavell ever wrote
10 down his password and left it in a public place?

11 A I -- I do not.

12 Q Do you know whether Mr. Leavell ever
13 allowed someone to sign into Tesoro's -- Tesoro's
14 computer system using his user name and password?

10:55 15 A I do not.

16 Q Do you know whether anyone besides
17 Mr. Leavell ever used Mr. Leavell's user name and
18 password in order to sign onto Tesoro's computer
19 system?

10:55 20 A I do not.

21 Q Mr. Garrie, you said you had something at
22 11:00?

23 A Yes.

24 Q It's five minutes till.

10:55 25 Do you want to take a break?

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10:55 1 A I -- I just need a -- a two-minute break.

2 Q Okay. Do you need it right at 11:00 or --

3 A Yeah.

4 Or I could take it right now. It's fine.

10:55 5 Q Well, it's up to you. I'm just --

6 A Could I just take a two-minute break right
7 now --

8 Q Sure.

9 A -- or even a minute break is just fine.

10 THE VIDEOGRAPHER: Time is 10:56 a.m.

11 We're off the video record.

12 (Break taken.)

13 THE VIDEOGRAPHER: Time is 10:58 a.m.

14 We're back on the video record.

10:58 15 BY MR. NEUMANN:

16 Q Mr. Garrie, at the bottom of the -- this
first full paragraph that starts "Our forensic
investigation" on page 2 of your -- of Exhibit
No. 188, the very last sentence says:

10:58 20 "The contemporaneous creation of
the documents followed by a
collective printing of the documents
provides further support for the
conclusion that a single individual
21 created these documents."

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10:58 1 Now, that's a single individual with
2 Mr. Leavell's user name and password; correct?
3 A Correct.
4 Q So it could have been somebody other than
10:58 5 Mr. Leavell?
6 A If they had the technical sophistication,
7 yes.
8 Q Well, and -- all they -- all they would
9 have needed to sign in and do the same thing that
10:59 10 Mr. Leavell was capable of doing was his user name
11 and password; correct?
12 MR. BEGLAND: Objection. Incomplete
13 hypothetical.
14 THE WITNESS: So -- no. You -- you would
10:59 15 need to -- as I said earlier, you would need to
16 either have the VPN credentials --
17 BY MR. NEUMANN:
18 Q Okay.
19 A -- or --
20 Q Wait. I'm sorry to interrupt you, but
21 I -- I understand there's a lot of -- let's take
22 somebody else in the credit department to make it
23 easy, because I understand that you -- there would
24 be limitations to a member of the general public.
25 Q But let's talk about somebody else in Tesoro's

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11:03 1 forensics surrounding the creation of the four
2 documents; correct?

3 MR. BEGLAND: He's asking about the
4 opinion you're offering in this case.

11:03 5 THE WITNESS: It pertains to the opinions
6 I set forth in -- which covers Documents 1 --
7 yeah -- that we previously defined as -- yes. As we
8 defined as documents, which is more than four. It's
9 Exhibits A through N.

11:03 10 BY MR. NEUMANN:

11 Q Understood.

12 (Court reporter clarification.)

13 THE WITNESS: A through N, as in "Nancy."

14 BY MR. NEUMANN:

11:03 15 Q And from a computer forensics standpoint,
it is possible that someone else with Mr. Leavell's
user name and password created the four documents?

16 A Any -- yes. Anything is possible, as I
said before, subject to access credentials, facts,
and other pieces. But anything is certainly
possible.

17 Q By "access credentials," you mean access
into Tesoro's building?

18 A And I mean access to the building and
access to the file -- just because you work at help

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11:04 1 desk doesn't mean you have access to the credit file
2 share or to Calvin Leavell's personal -- so you
3 would need his credentials, his login. And I
4 believe that the machine, depending -- if it's
11:04 5 within the building, yes. If it's outside the
6 building, I don't know if the machines had to
7 actually be authenticated prior to allowing access.

8 Q Okay. So -- so it's possible that someone
9 outside of the building with the appropriate VPN and
11:04 10 so forth who had otherwise had access to Cal
11 Leavell's -- strike that -- to Tesoro's computer
12 system, could use Cal Leavell's credentials to log
13 onto Tesoro's computer system remotely?

14 A I don't know.

11:04 15 Q You don't know one way or the other?

16 A I don't know with certainty one way or the
17 other.

18 Q Do you know who had access to
19 Mr. Leavell's computer?

11:05 20 MR. BEGLAND: Physical access?

21 MR. NEUMANN: Yes.

22 MR. BEGLAND: He's asking you the physical
23 configuration of the office, not login or passwords.

24 THE WITNESS: I have -- I don't know.

11:05 25 I -- I don't know -- I don't know the list of

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OC?

1 DEPOSITION OFFICER'S CERTIFICATE

2
3 COUNTY OF LOS ANGELES)
4 STATE OF CALIFORNIA)
5

6 I, Cheryl M. Parrish, hereby certify:

7 I am a duly-qualified Certified Shorthand
8 Reporter in and for the State of California, holder
9 of Certificate Number CSR 9124, issued by the Court
10 Reporters Board of California and which is in full
11 force and effect. (Fed. R. Civ. P. 28(a)).

12 I am authorized to administer oaths or
13 affirmations pursuant to California Code of Civil
14 Procedure, Section 2093(b) and prior to being
15 examined, the witness was first duly sworn by me.
16 (Fed. R. Civ. P. 28(a), 30(f)(1)).

17 I am not a relative or employee or attorney or
18 counsel of any of the parties, nor am I a relative
19 or employee of such attorney or counsel, nor am I
20 financially interested in this action. (Fed. R.
21 Civ. P. 28).

22 I am the deposition officer that
23 stenographically recorded the testimony in the
24 foregoing deposition and the foregoing transcript is
25 a true record of the testimony given by the witness.

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2 DANIEL GARRIE

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4 (Fed. R. Civ. P. 30(f) (1)).

5 Before the completion of the deposition, review
6 of the transcript [] was [X] was not requested.
7 If requested, any changes made by the deponent (and
8 provided to the reporter) during the period allowed,
9 are appended hereto. (Fed. R. Civ. P. 30(e)).

10 In witness whereof, I have hereunto set my hand
11 this day: October 22, 2014.

12 
13

14 CHERYL M. PARRISH, CSR No. 9124

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MARKED

EXHIBIT D

PARRISH REPORTING

depos@parrishreporting.com